

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
MARIO RAMIREZ,

For Online Publication Only

Plaintiff,

-against-

BLUE GRASS LANDSCAPING AND
GARDENING, INC., and MICHAEL MONES,

Defendants.

ORDER

22-CV-00813 (JMA) (JMW)

**FILED
CLERK**

4:46 pm, Oct 05, 2022

**U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE**

-----X
AZRACK, United States District Judge:

Plaintiff Mario Ramirez commenced this action against Defendants Blue Grass Landscaping and Gardening, Inc. and Michael Mones pursuant to the Fair Labor Standards Act, 29 U.S.C. §§ 201 et seq., Articles 6 and 19 of the New York Labor Law, and Part 142 of the New York Codes, Rules, and Regulations. (ECF No. 1.)

On June 22, 2022, Defendants filed a letter “request[ing] that the court schedule a conference so that a determination can be made as to the status of [Plaintiff’s] attorney/client relationship . . . and whether [Plaintiff] consents to continue this suit.” (ECF No. 11.) The Court referred Defendants’ request to Magistrate Judge James M. Wicks. (See Electronic Order dated June 30, 2022.) At an evidentiary hearing conducted by Magistrate Judge Wicks on August 22, 2022, Plaintiff and his counsel advised Magistrate Judge Wicks that Plaintiff wished to discontinue this action without prejudice. (See ECF No. 19.)

Now before the Court is the Report and Recommendation (“R&R”) of Magistrate Judge Wicks, dated September 19, 2022, which recommends that the parties’ proposed Stipulation of Dismissal Without Prejudice (ECF No. 23-1) be so-ordered, and that further review is not required under Cheeks v. Freeport Pancake House, Inc., 796 F.3d 199 (2d Cir. 2015). (ECF No. 24.) For the reasons stated below, the R&R is adopted in its entirety.

“Where parties receive clear notice of the consequences, failure to timely object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.” Smith v. Campbell, 782 F.3d 93, 102 (2d Cir. 2015) (quoting Mario v. P & C Food Mkts., Inc., 313 F.3d 758, 766 (2d Cir. 2002)); see also Phillips v. Long Island R.R. Co., 832 F. App’x 99, 100 (2d Cir. 2021) (same). In the absence of any objections, “the district court need only satisfy itself that there is no clear error on the face of the record.” Estate of Ellington ex rel. Ellington v. Harbrew Imports Ltd., 812 F. Supp. 2d 186, 189 (E.D.N.Y. 2011) (internal citations omitted).

No objections to the R&R have been filed and the time for doing so has since passed. The Court has reviewed the record and the unopposed R&R for clear error and, finding none, hereby adopts Magistrate Judge Wicks’ R&R in its entirety as the opinion of the Court.

Accordingly, the parties’ Stipulation of Dismissal Without Prejudice (ECF No. 23-1) is SO- ORDERED. The Clerk of Court is respectfully directed to close this case.

SO ORDERED.

Dated: October 5, 2022
Central Islip, New York

/s/ (JMA)
JOAN M. AZRACK
UNITED STATES DISTRICT JUDGE